

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

DOREEN SMITH, Administrator of the)	CASE NO. 1:13-cv-00744
Estate of Kenneth C. Smith, Deceased,)	
)	JUDGE SOLOMON OLIVER, JR.
Plaintiff,)	
)	
vs.)	DEFENDANT ROGER JONES' MOTION
)	FOR AN ORDER ON THE
ROGER JONES,)	ADMISSIBILITY OF SCENE ANIMATION
)	DEMONSTRATIVE EXHIBIT
Defendant.)	
)	

Defendant Roger Jones (“Officer Jones”) respectfully moves this Court for an in *limine* ruling on the admissibility of computer-generated scene animation that Officer Jones plans to introduce at trial in order to illustrate his testimony. This motion is being made in order to address any issues that the Court might have regarding this demonstrative exhibit, as well as to address any objections posed by Plaintiff’s counsel prior to the start of trial in order to minimize any disruption to the order and flow of the trial.

Officer Jones respectfully states that he is not offering the scene animation as substantive evidence, but rather as a demonstrative exhibit. Scene animations are typically used to illustrate witness testimony. *Bullock v. Daimler Trucks N. Am., LLC*, 819 F. Supp. 2d 1172, 1176 (D. Colo. 2011) (citation omitted). If a computer-generated animation is offered into evidence, usually the only foundation necessary is that required of other forms of demonstrative evidence—the testimony of a knowledgeable witness that the animation fairly and accurately depicts what its proponent claims. *Id.* To guard against prejudice, a court should offer a limiting instruction telling the jury the purpose for which the animation is admitted and that it is not to be

considered as substantive evidence. *Id.* Usually illustrative evidence is not sent to the jury room. *Id.*

In *Bullock*, the defendant attempted to introduce a computer-generated simulation of a one vehicle accident and sought a pretrial ruling on its admissibility. The Court determined that the animation could not be used offered as substantive evidence because the defendant failed to designate the individual who oversaw the modeling analysis used to create the animation as an expert witness. *Id.*, at 1176-1177. Without the expert testimony from this individual, the Court determined that a foundation regarding the scientific reliability of the animation could not be provided as required Federal Evidence Rule 901(b). *Id.* However, the *Bullock* court allowed the defendant to play the animation during the course of the witness' testimony as it would be illustrative of the witness' opinions he would be expressing during his testimony. *Id.* An out-of-court experiment may be offered by an expert at trial in order to illustrate or demonstrate principles used to form an expert opinion. *Id.* (Citation omitted).

Here, Officer Jones does not intend to offer the scene animation as substantive evidence. In that regard, the testimony of the individual who oversaw the creation of the animation in this case is not needed to set forth its scientific reliability. Rather, Officer Jones will be able to lay the foundation necessary; that the animation fairly and accurately depicts the sequence of events on the night in question. The animation will help illustrate Officer Jones' testimony to the jury. As such, the Court should use its discretion and allow the jury to view the animation during Officer Jones' testimony.

Lastly, Scott Roder from the Evidence Room, the individual who oversaw the creation of the scene animation in this case will be available to testify to the Court and answer any questions

regarding the reliability and authenticity of the scene animation outside the presence of the jury should the Court require it.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on August 25, 2015, a copy of this **Defendant Roger Jones' Motion for an Order on the Admissibility of Scene Animation Demonstrative Exhibit** was electronically filed. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

s/ Alejandro V. Cortes

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